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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.803 OF 2005

Kamaluddin Malil Ahmed Shaikh
& Ors. ... Petitioners

Vs.

State of Maharashtra & Ors. ... Respondents

Mr. O.P. Pandey i/b Pandey & Co. for the petitioenrs.

Mr. Pradeep Jadhav, A.G.P. for respondents 1 and 2.

Ms. P.A. Purandare for respondent 4.

**CORAM: SMT. RANJANA DESAI &
ABHAY S. OKA, JJ.**

DATED: 6TH DECEMBER 2005.

P.C.:-

1. Petitioners 1 to 19 along with others have filed Writ Petition No.1310 of 1999 in this court praying for orders and directions to provide them benefits under SRA and/or SRD scheme by providing alternate accommodations in lieu of demolished structures and/or to provide them plot of land with permission to construct their structures. On 2/9/1999, the Division Bench of this court directed the competent authority to scrutinise the applications of the applicants and decide them within four weeks thereafter. According to the petitioners, since the respondents did not comply with the said direction, they filed Contempt Petition No.132 of 1999 in this court. On 10/1/2000, the learned single judge of this court directed the

respondents to scrutinise the said application and decide the same within four weeks. The grievance of the petitioners is that the said direction was not complied with. Therefore, in this petition, the petitioners have, inter alia, prayed that appropriate directions be given to the respondents to allot the plot of land to the petitioners.

2. In response to the petition, affidavit has been filed by one Vasudev Madhav Sankhe, Tahsildar in the office of the Deputy Collector (Enc/Removal), Malad. The affidavit indicates that as far as petitioners 1, 3, 6, 12, 16 and 19 are concerned, they are eligible and, therefore, they are protected hutment dwellers and as per the Government policy, they are entitled to alternate pitches. However, petitioners 2, 4, 5, 7, 8, 9, 10, 11, 13, 14, 15, 17 and 18 are concerned, they have not produced any documentary evidence to prove that they were in possession of their huts prior to 1/1/1995 and, hence, they are not entitled to any protection and their huts are liable to be demolished. Since petitioners 1, 3, 6, 12, 16 and 19 are held to be eligible, they would undoubtedly be provided with alternate pitches as per the Government policy. So far as other petitioners are concerned, we are informed that separate orders have been passed declaring them not eligible. However, those orders are not communicated to the petitioners. The learned counsel for the respondents states that the orders will be communicated to the

petitioners within two weeks from today. The Deputy Collector, (Encroachment/Removal), Malad, is directed to communicate the said orders to the petitioners. Needless to say that on receipt of the same, the petitioners will be entitled to challenge the said order if they so desire.

3. The petition is disposed of in the aforestated terms.

(SMT. RANJANA DESAI, J.)

(ABHAY S. OKA, J.)